

Verizon N.Y., Inc. v Linde-Griffith Constr. Co.

2025 NY Slip Op 35191(U)

December 30, 2025

Supreme Court, New York County

Docket Number: Index No. 156544/2025

Judge: Emily Morales-Minerva

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 42M

-----X
VERIZON NEW YORK, INC.

Plaintiff,

- v -

LINDE-GRIFFITH CONSTRUCTION CO.,

Defendant.

INDEX NO. 156544/2025

MOTION DATE 10/31/2025

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 7, 8, 9
were read on this motion to/for AMEND CAPTION/PLEADINGS

APPEARANCES:

Smith & Shapiro, New York, NY (Harry Shapiro, Esq., of
counsel), for plaintiff.

Milber Makris Plousadis & Seiden, LLP, Woodbury, NY (Jeremy
S. Simon, Esq., of counsel) for defendant.

HON. EMILY MORALES-MINERVA, J.S.C.

In this action sounding in negligence, plaintiff VERIZON
NEW YORK, INC. moves unopposed, by notice of motion (sequence
number 01), pursuant to CPLR § 3025 (b),¹ for leave to amend its
complaint to add Suffolk Construction Company, Inc. as an
additional defendant.

¹ Rule 3025 (b) of the CPLR provides, "A party may amend his or her pleading,
or supplement it by setting forth additional or subsequent transactions or
occurrences, at any time by leave of court or by stipulation of all parties.
Leave shall be freely given upon such terms as may be just including the
granting of costs and continuances. Any motion to amend or supplement
pleadings shall be accompanied by the proposed amended or supplemental
pleading clearly showing the changes or additions to be made to the pleading"
(emphasis added).

For the reasons explained below, the motion (seq. no. 01) is granted entirely.

Leave to amend a pleading should be freely given absent a showing of substantial prejudice or surprise, unless the proposed amendment is palpably insufficient or patently devoid of merit (see CPLR § 3215 [b]; see also JP Morgan Chase Bank, N.A. v Low Cost Bearings N.Y., Inc., 107 AD3d 643, 644 [1st Dept 2013]). "On a motion for leave to amend, plaintiff need not establish the merit of its proposed new allegations, but simply show that the proffered amendment is not palpably insufficient or clearly devoid of merit" (MBIA Ins. Corp. v Greystone & Co., Inc., 74 AD3d 499, 500 [1st Dept 2010] [internal citation omitted]).

Here, plaintiff asserts that, after the instant action was filed, it received information that Suffolk Construction Company, Inc. subcontracted with defendant LINDE-GRIFFITH CONSTRUCTION CO. for defendant to perform excavation and foundation work at the location where plaintiff's underground facilities and telecommunications lines were damaged (see New York State Court Electronic Filing System [NYSCEF] Doc. No. 08, affirmation in support of motion, and Doc. No. 09, proposed amended complaint). As such, plaintiff seeks leave to amend the

complaint to add Suffolk Construction Company, Inc. as a defendant.

The proposed amended complaint is not palpably insufficient or clearly devoid of merit, and has not been shown to expose defendants to undue prejudice or surprise (see Dziura v Human Dev. Assn., 231 AD3d 615, 616 [1st Dept 2024] [granting plaintiff's motion for leave to amend the complaint to add additional defendants]). Therefore, plaintiff's unopposed motion (seq. no. 01) to amend its complaint is granted.

Accordingly, it is hereby

ORDERED that the motion (seq. no. 01) of plaintiff VERIZON NEW YORK, INC. is granted; it is further

ORDERED that the amended complaint in the form annexed to the motion shall be deemed served upon defendant LINDE-GRIFFITH CONSTRUCTION CO. upon service of a copy of this order, with notice of entry; it is further

ORDERED that plaintiff shall serve a copy of this order with notice of entry on defendant LINDE-GRIFFITH CONSTRUCTION CO. within 15 days of such entry; it is further

ORDERED that plaintiff shall, within 30 days from the date of this order, serve a copy of this order, as well as the amended complaint, upon newly added defendant SUFFOLK CONSTRUCTION COMPANY, INC., in accordance with the service provisions of the CPLR; it is further

ORDERED that plaintiff shall, within 15 days from the date of this order, serve a copy of this order upon the County Clerk and the Clerk of the General Clerk's Office, who are directed to amend the caption and court records to the following:

VERIZON NEW YORK, INC.

Plaintiff,

-v-

LINDE-GRIFFITH CONSTRUCTION CO. and SUFFOLK CONSTRUCTION COMPANY, INC.,

Defendants;

it is further

ORDERED that such service upon the County Clerk and the Clerk of the General Clerk's office shall be made in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases

(accessible at the "E-Filing" page on the court's website); and

it is further

ORDERED that the Clerk of Court shall mark the file accordingly.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

12/30/2025

DATE

EMILY MORALES-MINERVA, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE

156544/2025 VERIZON NEW YORK, INC. vs. LINDE-GRIFFITH CONSTRUCTION CO. Motion No. 001

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